

## **REMARKS**

Claims 1-3, 9-11, 16, 17 and 22 are now pending in the present application. Claims 5-7, 23 and 24 are being cancelled herewith. Reconsideration of the pending claims is respectfully requested.

### **I. 35 U.S.C. § 121**

The Office Action requires a restriction to one of the following sets of claims:

- I. Claims 1-3, 9-11, 16-17 and 22, drawn to a method in a data processing system for determining whether a picture of a sender of an instant message is associated with the instant message, the determining step being done by a process of a receiver of the instant message, classified in class 715, subclass 715;
- II. Claims 5-7, drawn to a method in a data processing system for determining whether a picture of a sender of an instant message is associated with the instant message, the determining step (selecting and embedding an image in an instant message) being done by a process of a sender of the instant message, classified in class 715, subclass 751; and
- III. Claims 23 and 24, drawn to a method in a data processing system for determining whether a picture of a sender of an instant message is associated with the instant message based upon the particular content of the instant message, the determining step being done without user intervention, classified in class 715, subclass 751.

In response to the Restriction Requirement, Applicant elects invention I, Claims 1-3, 9-11, 16-17 and 22, without traverse.

Claims 5-7 to non-elected invention II, and Claims 23 and 24 to non-elected invention III, are hereby canceled without prejudice or disclaimer. It is respectfully urged that the subject application be reconsidered.

## **II. Conclusion**

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

/Wayne P. Bailey/

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